

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN T. WILLIAMS,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

No. 23-cv-8300 (RJS)

UNITED STATES OF AMERICA,

-v-

JOHN TODD WILLIAMS,

Defendant.

No. 14-cr-784-2 (RJS)

ORDER

RICHARD J. SULLIVAN, Circuit Judge:

Petitioner John T. Williams, who is appearing *pro se*, commenced this action in the United States District Court for the Western District of New York on September 11, 2023. His petition, styled as a “Rule 60(b)(4) Motion to Vacate for Lack of Jurisdiction Void Judgement,” once again challenges Williams’s conviction and fully-served sentence in *United States v. Williams*, No. 14-cr-784-2 (RJS) (S.D.N.Y. Dec. 14, 2016). (Doc. Nos. 1, 5.) By order dated September 18, 2023, the Western District of New York construed Petitioner’s submission as a petition for relief under 28 U.S.C. § 2255 and transferred the case to this Court, where it was assigned to my docket as related to the underlying criminal case. (Doc. Nos. 3, 4.) Before the Court took any action in this matter, Petitioner filed a notice of voluntary withdrawal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), dated January 3, 2024, seeking dismissal of this action. (Doc. No. 9.)

Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure – which applies in this case, *see* Fed. R. Governing § 2255 Proceedings 12; *see also Thai v. United States*, 391 F.3d 491, 497

(2d Cir. 2004) (applying Fed R. Civ. P. 41(a)(2) to section 2255 case) – provides that “a plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment,” Fed. R. Civ. P. 41(a)(1)(A). Here, no answer or other response to Williams’s petition has been filed. Accordingly, Petitioner is entitled under Rule 41(a)(1)(A) to voluntarily dismiss this action without a court order, and the Court therefore directs the Clerk of Court to close this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and thus *in forma pauperis* status is denied for the purpose of an appeal in the unlikely event that Petitioner seeks to appeal the Court’s granting of his motion. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Dated: January 4, 2024
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation